



(Ireland.)

A

B I L L

[AS AMENDED BY THE COMMITTEE]

For the better Prevention and Punishment of Assaults in Ireland.

[N. B.—The Clauses marked (A.) to (G.) were added by the Committee.]

WHEREAS the use of Stones, and of loaded Sticks, and loaded Whips, in the commission of Assaults, has been productive of grievous injury and sometimes loss of life in Ireland :

And whereas, by an Act passed in the tenth year of the reign of his late Majesty King GEORGE the Fourth, intituled, "An Act for consolidating and amending the Statutes in Ireland relating to Offences against the Person," a summary power of punishing persons for common Assaults is provided under the limitations therein mentioned, and jurisdiction is given, when any person should unlawfully assault or beat any other person, to Justices of the Peace, upon complaint of the party aggrieved, to hear and determine such offence; and it is enacted, that the offender, upon conviction thereof before them, shall forfeit and pay such fine as shall appear to them to be meet, not exceeding, together with costs (if ordered), the sum of Five Pounds; and in default of the person so convicted paying such fine as therein mentioned, power is given by said Act to such Justices to commit the offender to the common Gaol or House of Correction, there to be imprisoned for any term not exceeding Two calendar Months, unless such fine and costs be sooner paid;

BE it therefore Enacted, by The QUEEN's most Excellent MAJESTY, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament

1.
Penalty for
Assaults com-
mitted with
loaded
Weapon.

ment assembled, and by the Authority of the same, THAT if, upon hearing of any such complaint, it shall appear to the Justices, by proof on oath, that such unlawful assault or beating was committed by the offender hitting or striking the party aggrieved with a stone or heavy and dangerous metal weapon held in or swung by the offender's hand while the blow was inflicted, or with a stick or whip loaded with iron or any other metal, or with any instrument so loaded, the offender upon conviction thereof before such Justices shall, in lieu of such fine or penalty so imposed by said Act, forfeit and pay such fine as shall appear meet to such Justices, not less than the sum of Ten Shillings, nor exceeding the sum of Five Pounds, together with costs (if ordered), such fine and costs to be paid and applied in like manner as any fine imposed by virtue of said provisions of said Act may or ought to be paid or applied, unless otherwise ordered as hereinafter mentioned; and if such fine as shall be so awarded by the Justices, together with costs (if ordered), shall not be paid either immediately after the conviction, or within such period as the said Justices shall at the time of the conviction appoint, it shall be lawful for them to commit the offender to the common Gaol or House of Correction, there to be imprisoned for any term not exceeding Two calendar Months, unless such fine or costs be sooner paid.

2.
CLAUSE (A)
Penalty to
which an ass-
ault may be paid
to the party
injured, or his
wife or child.

Provided always, and be it Enacted, That in case the party injured by such beating or assault shall not himself be examined upon the hearing of such complaint, it shall be lawful for the Justices to award that the amount of such fine or penalty, or any part thereof, and such costs as aforesaid, shall be paid to such party so injured, and the same shall be so paid accordingly.

3.
CLAUSE (B)
Pardon for
non-payment
of money.

And be it Enacted, That it shall be lawful for the Lord Lieutenant or other Chief Governor or Chief Governors of Ireland, to extend the Royal mercy to any person imprisoned by virtue of this Act, although he shall be imprisoned for non-payment of money to some party other than the Crown.

4.
Justices to
decide in
case they
shall deem
the offence
not to be
proved, or if
they shall
deem it to be
proved, but not
on the ground
that the party
is trifling, if
the assault
be committed
with a Stone
held in the
hand, or loaded
Whip or
Stick.

Provided always, and be it Enacted, That in case the Justice, upon the hearing of any such complaint of assault or battery, shall deem the offence not to be proved, or in case they shall find the assault or battery to have been justified, and in case they shall dismiss the complaint accordingly, they shall forthwith make out a certificate under their hands, stating the fact of such dismissal, and shall deliver such certificate to the party against whom the complaint was preferred; and said certificate shall be of the same force and effect as any certificate given under said recited Act: Provided also, That nothing herein or in said recited Act contained shall empower the Justices to dismiss such complaint as they are thereby empowered to entertain, (although they

they might, under other circumstances, deem the offence, though committed, to be so trifling as not to merit any punishment), if proof shall be given before them that the assault or beating was committed by the offender so hitting or striking with a stone or heavy and dangerous metal weapon held in or swung by his hand when the blow was inflicted, or with a whip or stick or instrument so respectively loaded as aforesaid.

Provided always, and be it Enacted, That in case the Justices before whom such complaint and such proof shall be made, shall find the assault to be such as in their opinion to be a fit subject for a prosecution by indictment, or if the complainant or prosecutor shall so require, they shall abstain from any adjudication thereupon; and if the charge be such, and so substantiated, as to warrant a prosecution, shall deal with the case as one to be prosecuted at the Assizes or Quarter Sessions:

Provided always, That nothing herein contained shall authorize any Justice of the Peace to hear and determine any case of assault or battery in which any question shall arise as to the title to any lands, tenements or hereditaments, or any interest therein or accruing thereupon, or as to any bankruptcy or insolvency, or any execution under any process of any Court of Justice.

5.
CLAUSE (C.)
Justices, if they think fit, or be required by the Prosecution, shall deal with the case as one to be prosecuted at the Assizes or Quarter Sessions.

Summary Jurisdiction under this Act not to be exercised in certain cases.

And be it Enacted, That if any person shall unlawfully assault and beat or wound any person with a stone or any heavy and dangerous missile, (whether held in or swung by the hand while the blow is inflicted, or flung at such person), or with a stick or whip loaded with iron or any other metal, or with any instrument so loaded, and shall be convicted thereof on any indictment, in any such case the Court may sentence the offender, being convicted thereof, to be imprisoned, with or without hard labour, in the common gaol or house of correction for any time not exceeding Six calendar Months, and may also, if the Court shall so deem fit, fine the offender in any sum not exceeding Ten Pounds, and require him to find sureties to keep the peace.

6.
CLAUSE (D.)
Provision as to conviction on indictment under this Act, Six Months' imprisonment with or without hard labour, with or without fine not exceeding ten.

And be it Enacted, That where any person shall be convicted on any such indictment, such person may, if the Court shall so think fit, in addition to the judgment which shall be considered proper for the offence, be ordered and adjudged to pay to the Prosecutor his actual and necessary costs and expenses of prosecution, and such moderate allowance for the loss of time as the Court shall by affidavit or other inquiry and examination ascertain to be reasonable, and unless the sum so awarded shall be sooner paid, to be imprisoned for any time not exceeding Three Months, in addition to the term of imprisonment (if any) to which the offender may be sentenced for the offence.

7.
CLAUSE (E.)
On conviction for assault, Court may order payment of Prosecutor's costs.

8.
CLAYNE (F.)
Payment may
be enforced by
distress of
offender's
goods.

Provided always, and be it Enacted, That it shall and may be lawful for the Court, by warrant under hand and seal, to order that such sum as shall be so awarded shall be levied by distress and sale of the goods and chattels of the offender, and paid to the person prosecuting, and that the surplus, (if any), arising from such sale, shall be paid to the owner; and in case such sum shall be so levied, the imprisonment awarded until payment of such sum shall thereupon cease.

9.
CLAYNE (G.)
Prosecutor a
competent
witness

And be it Enacted, That the power hereby given to award such compensation as aforesaid shall not prevent any Prosecutor from being a competent witness on any indictment.

10.
President of
the G. & C. B.
with reference
to Summary
Convictions
(here as here-
by otherwise
provided), ex-
tended to this
Act.

And be it Enacted, That, save as hereby otherwise provided, all the powers and authorities given by and the provisions contained in said Act with respect to such summary conviction, and to the form thereof, and the non-removal thereof by certiorari or otherwise, and the time within which any such complaint shall be brought, and every other provision of said Act relating to proceedings under said summary jurisdiction for common assaults, shall apply to every proceeding instituted, and every penalty imposed, and every conviction and certificate had or made under or by virtue of this Act.

11.
Interpretation
Clause.

And be it Enacted, That in the construction of this Act every word importing the singular number only shall extend and be applied to several persons or things as well as one person or thing; and every word importing the masculine gender only shall extend and be applied to a female as well as a male.

12.
Act to come
into operation
on 1st September
1839, and
to continue in
force for Five
Years.

And be it Enacted, That this Act shall come into operation on the First day of September One thousand eight hundred and Thirty-nine, and shall continue in force for Five Years.

13.
Act may be
amended or
repealed.

And be it Enacted, That this Act may be amended or repealed by any Act or Acts passed in this present Session of Parliament

Assaults.

(Inbook.)

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B I L L

[AS AMENDED BY THE COMMITTEE]

For the better Prevention and Punishment of
Assaults in Ireland.

(Prepared and brought in by
Lord Viscount Mervell and Mr. Solicitor
General, for Ireland.)

Ordered, by The House of Commons, to be Printed,
24 July 1839
